MR. CHAIRMAN : We shall now take up clause-by-clause consideration of the Bill.

Clauses 2, 3 and the Schedule were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI JASWANT SINGH : Sir, I move: "That the Bill be returned." *The question was put and the motion was adopted.*

STATEMENT BY DEPUTY PRIME MINISTER

Prevention of Terrorism Act, 2002

THE DEPUTY PRIME MINISTER IN CHARGE OF THE MINISTRY OF HOME AFFAIRS AND MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRI L.K. ADVANI) : Mr. Chairman, Sir, with the intensification of cross-border terrorism and the continued offensive agenda of Pak ISI targeted at destabilising India and the post n'h September developments, it became necessary to put in place a special law to deal with terrorist acts. Accordingly, the Prevention of Terrorism Act, 2002 (POTA, 2002) was enacted and notified on 28.03.2002.

The POTA, 2002 clearly defines the terrorist act and the terrorist in Section 3 and grants special powers to the investigating authorities under the Act. However, in order to ensure that these powers are not misused and the violation of human rights does not take place, specific safeguards have been built into the Act. Some of these are:

No court can take cognisance of any offence under the Act without the previous sanction of the Central Government or, as the case may be, of the State Government.

No officer lower in rank than the Deputy Superintendent of Police can investigate offences under the Act.

Confession made by a person before a police officer not below the rank of Superintendent of Police is admissible as evidence under the Act provided such person is produced within 48 hours before a magistrate along with his confessional statement.

The Act .provides for punishment for any officer who exercises powers maliciously or with *malafide* intentions. It also provides for award of compensation to a person who has been corruptly or maliciously proceeded against under the Act.

The POTA, 2002 is a special law for the prevention of and for dealing with terrorist activities and clearly defines the terrorist act and the terrorist in Section 3, sub-section (1) of the Act. The Act provides the legal framework to strengthen the hands of the administration in our fight against the menace of terrorism and can and should be applied against such persons and acts as are covered by the provisions of this law and it is not meant as a substitute for action under ordinary criminal laws.

Members have raised from time to time an issue that the provisions of this law are invoked even against such persons and acts which do not fall into the ambit of this law.' The Government has given careful consideration to their views and it has been decided that the matter is serious enough to warrant the invoking of the powers of the Central Government under Section 60 of Act which provides for the formation of one or more Review Committees. The Review Committee shall consist of Justice Arun Saharya, former Chief Justice of Punjab High Court as Chairperson. The Review Committee will take a comprehensive view of the use of this legislation in various States and give its findings and suggestions for removing the shortcomings in the implementation of this law with a special reference to ensuring that the provisions of the Act are invoked for the combating of terrorism and are not used against ordinary criminals or those who are not terrorists or whose acts cannot be considered as terrorist acts.

The terms and conditions of the Committee will be worked out separately. Other members of the Review Committee will be named soon.

SHRI C.P. THIRUNAVUKKARASU (Pondicherry) : Sir, I just want to make* one point. I welcome the Review Committee that has been formed. The Review Committee is appointed to give its findings and suggestions for removing shortcomings in the implementation of this law with special reference to ensuring that the provisions of this Act are invoked for combating terrorism and are not used against ordinary criminals or those who are not terrorists or whose acts cannot be considered as terrorist acts.

I welcome this. But, I am having an apprehension whether under section 60 (3) of the Act, you are competent to appoint a committee or not. This is a point for consideration. With great respect, I submit that if any committee is appointed under section 60 (3), it is not competent to go into those facts whether it is combating of terrorism or an ordinary criminal or those who are not terrorists whose acts cannot be considered as terrorist acts. There are three sections. The power to appoint a Review Committee is made under section I9(2)(iii) with regard to denotification of terrorist organisations. If any organisation has been notified as a terrorist organisation, whether it is a terrorist organisation or not can be considered by the Government. When the Government refuse that, we can move to a Review Committee under section I9(2)(iii). Kindly allow me just two minutes. Under section 41, interceptions are made of the telephone communications. Under section 41 only, interceptions are made by any party, by a designated authority. That can be reviewed by a Review Committee constituted under section 60, and not any other section. Under section 46(1), a Review Committee can be constituted if interception has to be made. Under no other provision of the law you can do that. As per section 60 of the Act, a review of the whole arrest or retention can be made. With great respect I request the hon. Minister to kindly look into it. The committee, if it is to be appointed, tomorrow, it can't be said that the Government is not having power to constitute the committee, as said in the notification. There are powers only under three sections. Under no other provisions you have the power, but under section 60 of the act. The hon. Minister may kindly go into it.

SHRI L.K. ADVANI : Mr. Chairman, Sir, the hon. Member has referred to section 60 of the Act and, he pointed out two specific provisions, which refer to the fact that if an organisation is declared unlawful, or a terrorist organisation, and in that case they can apply to the Review Committee. He has cited other provisions also. But I would like to draw his attention to the overriding content of section 60, which says that the Central Government and each State Government shall, whenever necessary, constitute one or more Review Committees for the purposes of this Act.

I hold that this covers the whole arena, the whole area for which the Act has been enacted by Parliament. After all, when Parliament was enacting the Act, the Government, as well as many Members were, feeling that this Act may be misused. And, as I have said in my statement, this is not intended to substitute the ordinary criminal law. Crimes are committed

and those crimes can be dealt with under the ordinary law. This is intended for terrorism and terrorist acts which are, certainly, of a nature which may not be effectively dealt with by the present criminal law. Therefore, the Government felt this way, after listening to many Members in respect of this incident or that incident, on which I would not like to comment. But I would certainly say that while one avenue for that particular person or that particular organisation is to go to a court of law, it was felt that under this law itself, when the Central Government has the authority to form a Review Committee, why not do it? And then we will leave it to the Review Committee to make its recommendations on how we deal with the particular case.

SHRI KAPIL SIBAL (Bihar) : Sir, we are happy and we are grateful to you for having set up the Review Committee. I have just one small query to ask. You have said here, and you have said it in your statement that this Review Committee will take a comprehensive view of the use of this legislation in various States and give its findings and suggestions for removing the shortcomings in the implementation of this law. This seems to be an academic exercise. Does the Review Committee also have the jurisdiction to look into individual cases of misapplication of the law? That has not been clarified in the statement.

SHRI L.K. ADVANI : Mr. Chairman, Sir, he is an eminent lawyer and he would appreciate that the Government is bound by the law; it is bound by the Constitution also; and, therefore, we would not say anything in my statement which would seem to encroach on the legitimate sphere of the State Government. But, at the same time, Parliament has enacted this law on the understanding that it would be used only for terrorist acts and for terrorism. So, there are two avenues open; one is the courts of law; one is, of course, this Review Committee that we are forming, and what the Review Committee advises us or the State Government concerned, is a matter about which I would not like to comment at this point.

SHRI KAPIL SIBAL: Are we, then, right to understand that individual...

MR. CHAIRMAN: You have understood everything. Please.. *(Interruptions)...*

SHRI KAPIL SIBAL : What the hon. Home Minister has said... *...(Interruptions)...* What he said is of great movement, because we would

like to understand, if a person feels that law has been misused against him, then he can either fight it out in a court of law, or go straight to the Review Committee and say, "These are the facts; I have been unfairly dealt with" and the State committee or the Central committee can recommend to the Government saying, "Please take appropriate action." Is that the correct understanding of what the hon. Minister is saying? That is all.

श्री राजू परमार : (गुजरात) **:** जो लोग दुरूप्रयोग कर रहे हैं**,** वे क्या कमेटी बनाएंगे।

श्री सभापति : उन्हें बोलने दीजिए। *.(Interruptions)...*

SHRI L.K. ADVANI: May I add to what I have already said that I have it in mind to write to the State Government also that you must also form the Review Committees of your own also which take cognizance of all actions taken under the POTA...*(Interruptions)...* So far as your question is concerned, I have already replied to it.

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu) : Sir, I will take one minute. *...(Interruptions)...*

MR. CHAIRMAN : Now, we shall take up the Half-an-hour discussion. Shri Santosh Bagrodia.

HALF-AN-HOUR DISCUSSION

Points arising out of the answer to starred question no.49 given in the Rajya Sabha on the 20th February, 2003 regarding rise in telephone rental

SHRI SANTOSH BAGRODIA (Rajasthan) : Finally, I thank you. Sir, for allowing me to raise this very burning question of rise in telephone rentals. In a few seconds, through you, Sir, I will try to prove to the entire satisfaction of the hon. Minister that whatever decision the TRAI has taken is absolutely anti-people, anti-poor and pro-rich.

[THE DEPUTY CHAIRMAN in the Chair]

The increase in rental, call tariff, etc., in respect of fixed telephone lines has been very steep. The number of free calls has been reduced to almost half and the puise rate is also proposed to be brought down from 180 seconds to 120 seconds, which means a one-third increase in call rates. Further, the rate of call has also been increased from the existing 80 paise per call to Re.1 and Re.1.20. Broadly, the proposed revision in the rental and call tariff would make fixed telephones costlier by almost two times. The